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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,057	04/25/2005	Huan nan Ma	E1734-007	2070

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EXAMINER	
KAO, WEI PO ERIC	
ART UNIT	PAPER NUMBER
2416	
MAIL DATE	DELIVERY MODE
10/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/522,057	**Applicant(s)** MA ET AL.	
	Examiner WEI-PO KAO	**Art Unit** 2416	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2616

/Wei-po Kao/
Examiner, Art Unit 2416

Continuation of 13. Other: In response to the remark on page 4:
In response to the entire content of the remarks, in particular that Applicants argue the statement "… when the A layer, namely the higher layer, sends the notice 203 to the B layer, namely the lower layer, the B layer is informed with the fact that the higher layer has detected the failure …" is simply not accurate, the examiner respectfully disagrees. Paragraphs [0178] and [0182] of Shiragaki, U.S. Publication No. 2002/0162045 (Shiragaki) state the following:

[0178] In FIG. 3, the horizontal axis is the time axis; operation of the A layer is shown in the upper portion, and operation of the B layer is shown in the lower portion.

[0182] At this time, the layers communicate with each other the fact that failure recovering has started as failure recovery starting notices 203 and 204 using the inter A-B layer failure recovery information communication terminal and processing units 103 and 104.

A closer look to the figure 3 yields that the "failure recovery starting notice," element 203, occurs after the "failure detection," element 201. Most importantly, the B layer/low layer receives the "failure recovery starting notice" after the "failure detection" as shown by the downward arrow. Therefore, not only the statement "… when the A layer, namely the higher layer, sends the notice 203 to the B layer, namely the lower layer, the B layer is informed with the fact that the higher layer has detected the failure …" is accurate, Shiragaki also teaches that "after high layer processing module detection the module encounters a problem, it will inform the low layer processing module."

In response to the remark on page 5:
In response to the entire content of the remarks, in particular that Applicants disagree with the statement "... the higher layer stops the recovery process (indicating that the higher layer is still experiencing failure) and sends the notice 208 to the lower layer so the lower layer has the right to transmit the data ...." the examiner respectfully requests Applicants to consider the following reasoning. Paragraphs [0166], [0167] and [0171] of Shiragaki state the following:

[0166] Let assume now that the communication device 100 is a terminal point of a failure recovery section in both layers A and B. That is, if failure is detected as a result of monitoring signals in the A layer, by operating the A layer failure detection and recovery processing unit 101, failure recovery operation in the A layer can be activated.

[0167] On the other hand, if failure is detected as a result of monitoring signals in the B layer, by operating the B layer failure detection and recovery processing unit 102, failure recovery operation in the B layer can be activated.

[0171] If a failure is detected in multiple layers, the A layer failure detection and recovery processing unit 101 and the B layer failure detection and recovery processing unit 102 are activated simultaneously but individually, and perform operations up to immediately before switching of a main signal.

While paragraphs [0166-0167] teach that either layer (layer A or layer B) is able to perform failure detection and recovery individually, paragraph [0171] teaches that when there is a failure detected in each layer, namely a failure is detected in layer A and a different failure is detected in layer B, both layers can perform their respective failure detection and recovery processes simultaneously but individually. So, according to figure 3, where a failure is detected in both layer A and layer B, when layer B first reaches the "immediately before switching" stage (see paragraph [0172]), layer B notifies layer A with a "path reservation notice," element 207 (see paragraph [0185]). Once the layer A receives the notice 207, layer A "stops the failure recovery operation" in layer A, thus "the higher layer is still experiencing failure" (see paragraph [0186]). Then, the A layer sends the B layer a switch authorization notice 208 as a message indicating that the main signal may be actually switched (see paragraph [0187]). The B layer that received the switch authorization notice 208 actually switches the main signal and completes the failure recovery operation in the B layer (see paragraph [0188]).

In response to the remark on page 6:
In response to the entire content of the remarks, in particular that Applicants argue that "... the higher layer is isolated and the data traffic is switched by the lower layer, thus bypassing the higher layer ..." is not disclosed or suggested in any valid way, the examiner respectfully disagrees. Paragraphs [0185], [0186], [0187] and [0188] of Shiragaki state the following:

[0185] Since the B layer first reached the condition immediately before actually switching the main signal; this fact is communicated to the other layer (A layer) as a path reservation notice 207.

[0186] The A layer that received the path reservation notice 207 stops the failure recovery operation at that stage, and releases the path or the like which have been reserved until now.

[0187] Then, the A layer sends the B layer a switch authorization notice 208 as a message indicating that the main signal may be actually switched.

[0188] The B layer that received the switch authorization notice 208 actually switches the main signal and completes the failure recovery operation in the B layer.

In particular, according to paragraphs [0186] and [0187], the A layer releases the reserved path to the B layer by sending the B layer a "switch authorization notice" once it receives a "path reservation notice" from the B layer. Then the B layer becomes the layer that actually switches (transmits) the main signal. In another words, the faulted A layer is not switching the main signal or is isolated and bypassed.

In response to the remark on pages 7 and 8:
In response to the entire content of the remarks, in particular that Applicants argue that "... since the ATM is the connection oriented protocol, which requires connections and transmission parameters to be set up prior to the data flow between the source and destination pair, unless the communication path is broken, the connection, transmission parameters and the service the particular connection provides remain unchanged ..." is not proper, the examiner respectfully disagrees. As presented by the examiner, the connection oriented nature of the ATM requires the connections (VP and VC) and parameters (VPI and VCI) to be set up prior to the traffic flow between a source (or an upstream node) and destination (or an downstream). Such also includes the routing tables and the mapping of the parameters in the routing tables of any intermediate nodes between the source and destination pair. In another words, the routing/mapping provided by the routing tables in an ATM intermediate node is static or predetermined as a result of being a connection oriented protocol. Therefore, unless a communication path is broken, the associated connections (VP and VC) and parameters (VPI and VCI) remain unchanged and the service between a source and destination through ATM intermediate nodes also remain unchanged. In addition, Applicants seem to suggest that mapping between the parameters means changing of parameters and further changes the service between upstream and downstream nodes. The examiner respectfully points out that the mapping is a process of correlating different parameters instead of making change to the parameters. Thus mapping does not change the service between upstream and downstream nodes. .